



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/686,813      | 10/12/2000  | Yoshichika Komatsu   | 58647-029           | 5340             |

7590

03/29/2002

Kenneth L Cage  
McDermott Will & Emery  
600 13th Street NW  
Washington, DC 20005-3096

EXAMINER

CHANG, GYU SANG

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 03/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/686,813

Applicant(s)

KOMATSU ET AL.

Examiner

Gyu-Sang Chang

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/686813, filed on 10/12/2000.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 4/4/2001 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. There is no English language abstract or explanation of relevance for French patent 2698779. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

3. The drawings are objected to because The PRIOR ART label in Fig. 5 is misspelled. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 2A and 2B (page 8, line 2). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The disclosure is objected to because of the following informalities:

On page 1, line 29 - page 2, line 1, "A various types" should be --Various types--.

On page 2, line 1, the phrase "such principle" appears to be grammatically incorrect.

On page 2, lines 3 – 5, the sentence grammar appears to be incorrect.

On page 3, line 19, "operates" should be --operate--.

On page 5, lines 14 – 15, the grammar of the phrase "a personal body information being entered" appears to be incorrect.

On page 5, line 16, "followings" should be --following--.

On page 8, line 2, "2A, 2B" should be --3A, 3B--.

On page 8, line 4, "3A, 3B" should be --4A, 4B-- in order to be consistent with the rest of the specification.

On page 10, line 7, "conducting" should be --conducted--.

Appropriate correction is required.

### ***Claim Objections***

7. Claims 5 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as obvious over the applicant's admitted prior art (A.A.P.A.) in figures 4 and 5 and the "Description of the Prior Art" section in view of Masuo.

Regarding claim 1, the applicant's admitted prior art in figures 4 and 5 discloses every feature of claim 1, with the exception of the limitation that the personal body information is entered using the data input device after measuring the weight.

Masuo discloses a biological impedance based body composition measuring apparatus in which personal body data is entered into a data input device (col. 6, lines 31 – 37). Masuo discloses that weight comprises personal body data that is input into the input unit of the apparatus and discloses one possible method of obtaining the weight value (Fig. 6 and col. 6, line 61 – col. 7, line 4). It is clear that one must measure one's own weight before it can be entered into the input unit. Therefore, Masuo's step of inputting personal body data presupposes a previous measurement of the relevant weight. Alternatively it is clear from Masuo's disclosure that the order in which the steps of entering in personal body data, measuring the impedance, and measuring the weight is unimportant so long as all of the steps are completed before the body composition calculation is completed.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the A.A.P.A. disclosed in the specification to have the steps of entering in personal body data, measuring impedance, and measuring weight to be executed in any order because of the flexibility this allows in terms of customization for convenience.

Regarding claim 3, the applicant's admitted prior art discloses the weight meter measuring the weight in response to detecting the load (page 3, lines 4 – 6).

Regarding claim 4, it is obvious to allow the person under test to stand on the weight meter while entering in personal body information because it does not matter what the person under test is standing on when personal body data is entered, as long as standing on it does not interfere with entering the personal body information. The

fact that the person under test is standing on the weight meter used to measure the person's weight is not significant in that the weight measurement will not be adversely affected as long as the weight measurement is not made at the same time.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Kelly discloses a body composition analyzer using an impedance model that depends upon height weight and age parameters.
- b. Cha et al. discloses a method and apparatus for automatically determining body composition using biological impedance along with personal body characteristics.
- c. Fukuda et al. discloses a body fat measuring apparatus with built in weight meter comprising impedance measuring means and calculation using personal body data.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gyu-Sang Chang whose telephone number is (703) 605-4226. The examiner can normally be reached on M-F (about 9:00 - about 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S. Hilten can be reached on (703) 308-0719. The fax phone numbers

Application/Control Number: 09/686,813


Page 7

Art Unit: 2863

for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

GC  
March 25, 2002



**JOHN S. HILTEN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**